



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/520,798  
Applicant : Richard ROTHKOPF  
Filed : March 8, 2000  
TC/A.U. : 3622  
Examiner : John L. Young

Docket No. : 2470-104  
Customer No. : 06449  
Confirmation No. : 2139

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**DECLARATION UNDER 37 C.F.R. § 1.131**

I, Richard Rothkopf, the sole inventor in the above-captioned patent application, hereby respectfully submit this declaration to overcome the primary reference cited by the Examiner in the Office Action of March 31, 2005, namely, U.S. Patent Application Publication No. 2003/0083943 ("943 Publication") to Adams et al., having a filing date of December 3, 2002. The '943 Publication is a continuation of, and claims priority to, U.S. Patent Application No. 09/489,249, filed on January 21, 2000. Accordingly, the earliest filing date of the '943 Publication is January 21, 2000. To that end, I hereby declare as follows:

1. During the period of time the subject matter of this application was being developed, I was employed as Chairman of Learning Curve International and President of Rothkopf Enterprises. I also was a member of the Advisory Board of webloyalty.com of Norwalk, Connecticut, the assignee of this application.
2. Prior to January 21, 2000, I conceived of the invention disclosed and claimed in the above-captioned application. The invention was conceived in the United States.
3. Conception of my invention is evidenced by the accompanying draft patent application attached hereto as Exhibit A, which was completed and sent to Mr.

Richard Fernandes of webloyalty by outside patent attorney, Vincent M. DeLuca, prior to January 21, 2000. Exhibit B is a copy of a cover letter from Mr. DeLuca to Mr. Fernandes accompanying the draft application of Exhibit A, dated prior to January 21, 2000, with the date having been redacted on the copy attached hereto. I was provided with a copy of the draft application of Exhibit A by Mr. Fernandes prior to January 21, 2000 for my review and comment.

4. The draft application of Exhibit A describes my invention and demonstrates that I had conceived the subject matter of the claims of this application prior to January 21, 2000.

5. Independent claim 1 is set forth in bold below, with the support for each recited element set forth in brackets below the corresponding claim element.

**An electronic commerce apparatus for offering a promotional award to a visitor of an electronic commerce site, comprising:**

[Page 5, lines 8-10 describes an electronic commerce apparatus. See, also, FIG. 1; page 12, lines 1-3.]

**a connection to a distributed communication network;**

[Page 5, lines 10-12 states that "an electronic commerce site 106 is connected to a distributed communication network 100." See, also, FIG. 1; page 12, line 4.]

**a promotional awards storage area, including**

[Page 6, lines 11-20 describes a "promotional awards storage area 115 ... that track[s] multiple visitors and [] all promotional award activity at the electronic commerce site 106." See, also, FIG. 1; page 12, lines 5-6.]

**a customer identifier storage that contains unique identification information for each visitor to said site, and**

[Page 8, lines 5-11 describes a visitor identifier storage 121 that contains "a unique identifier, assigned to each visitor upon their first visit." See, also, page 6, line 18.]

**a visitor parameter storage that contains information pertaining to prior visits to said site by visitors identified in said customer identifier storage; and**

[Page 8, lines 12-13 describes a number of visits storage 124 that "records the number of all previous visits by the associated potential customer." See, also, page 6, lines 18-19.]

**an awards rule storage that stores rules for crediting awards to visitors of said site according to information stored in said visitor parameter storage;**

[Page 6, line 21-page 8, line 2 discloses an award rule storage 109 that contains rules governing promotional awards. See, also, page 6, lines 9-10; page 12, line 7.]

**wherein a visitor of said site is granted a promotional award by retrieving visitor parameter information from said visitor parameter storage corresponding to customer identification information stored in said customer identifier storage in response to visitor identification information provided to said apparatus upon visitor access to said site, and applying retrieved visitor parameter information to award crediting rules retrieved from said awards rule storage.**

[Page 7, line 1-page 8, line 2 discloses retrieving visitor parameter information and applying the information to the award rules. See, also, page 12, lines 8-12.]

6. Independent claim 10 is set forth in bold below, with the support for each recited element set forth in brackets below the corresponding claim element.

**A method for offering a promotional award to a visitor to an electronic commerce site, comprising the steps of:**

[Page 8, lines 21-22 describes a method for offering a promotional award. See, also, page 14, lines 1-2.]

**detecting a site visit by a visitor and keeping track of a number of visits to said site and a number of purchases from said site by individually identified visitors; and**

[Page 8, lines 22-25 discloses the step of detecting a site visit. See, also, page 14, line 3.]

**granting a promotional award to said visitor in accordance with award rules pertaining to the number of visits to said site by said visitor and purchases from said site by said visitor;**

[Page 9, lines 1-4 describes the step of granting a promotional award. See, also, page 14, lines 4-6.]

**wherein said visitor is motivated to make multiple site visits and a purchase as a result of said promotional award.**

[Page 7, lines 12-19 describes incentives of the promotional award. See, also, page 7, lines 4-6; page 14, lines 10-11.]

7. Independent claim 19 is set forth in bold below, with the support for each recited element set forth in brackets below the corresponding claim element.

**A method of offering a promotional award to a visitor of an electronic commerce site, comprising the steps of:**

[Page 9, lines 16-17 describes a method for offering a promotional award. See, also, page 16, lines 1-2.]

**detecting a site visit by a visitor and storing information identifying a visitor and identifying prior promotional awards credited to said visitor;**

[Page 9, lines 17-18 discloses the step of detecting a site visit. See, also, page 16, line 3.]

**determining whether said visitor has already exceeded a predetermined promotional award limit;**

[Page 9, lines 18-21 describes a predetermined promotional award limit is compared against a promotional award amount stored in an award amount storage 129. See, also, page 16, lines 4-5.]

**granting a promotional award to said visitor if said visitor has not exceeded said predetermined promotional award limit and updating the value of said prior credited promotional awards associated with visitor identification information;**

[Page 9, line 21-page 10, line 6 states that a promotional award is given to a visitor if the last promotional award to the visitor is less than the predetermined award limit. See, also, page 16, lines 6-9.]

**wherein said visitor is motivated to make multiple site visits and a purchase as a result of said promotional award.**

[Page 7, lines 12-19 describes incentives of the promotional award. See, also, page 7, lines 4-6; page 16, lines 13-14.]

8. During the period prior to January 21, 2000 and until the patent application was filed with the Patent Office on March 8, 2000, I exercised reasonable diligence in assisting with the preparation and finalization of the patent application for filing in the U.S. Patent and Trademark Office. For example, I carefully reviewed and provided comments on the draft patent application to Rick Fernandez. In addition, I received, reviewed and signed the Inventor's Oath and Declaration and Assignment, which were filed in the U.S. Patent and Trademark Office on March 8, 2000.

#### **DECLARATION UNDER 37 C.F.R. § 1.68**

All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true. All statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and

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Declaration under 37 C.F.R. § 1.131

that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.



Richard Rothkopf

9.21.05

Date

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Mr. Richard Fernandes  
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Re: New U.S. Patent Applications  
INCREMENTAL PROMOTION FOR ELECTRONIC COMMERCE; and  
COMPUTER-IMPLEMENTED APPARATUS AND METHOD FOR  
GENERATING A TAILORED PROMOTION  
Our Refs.: 2470-104 and 2470-105

Dear Rick:

Enclosed are the two above-identified applications which have now been revised. Also enclosed are Declarations, Assignments and Small Entity Declarations.

Please execute the formal papers if the applications are in order and there are no further changes to be made thereto. In the event there are further changes or revisions, please give me a call.

Very truly yours,

Vincent M. DeLuca

VMD:cjk  
Enclosures  
2470-104.12

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